

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4817 GIBRALTAR Thursday 4th February 2021

LEGAL NOTICE NO. 104 OF 2021.

EUROPEAN UNION (WITHDRAWAL) ACT 2019

FINANCIAL SERVICES (CONSUMER CREDIT) ACT 2011 (AMENDMENT) (EU EXIT) REGULATIONS 2021

In exercise of the powers conferred on the Minister by section 11 of the European Union (Withdrawal) Act 2019, the Minister has made these Regulations—

Title.

1. These Regulations may be cited as the Financial Services (Consumer Credit) Act 2011 (Amendment) (EU Exit) Regulations 2021.

Commencement.

2. These Regulations are deemed to have come into operation on 1st January 2021.

Amendment to Financial Services (Consumer Credit) Act 2011.

3.(1) The Financial Services (Consumer Credit) Act is amended as follows.

(2) Omit section 2.

(3) In section 3—

(a) re-number section 3 as section 3(1);

(b) after the definition of “annual percentage rate of charge” insert—

““Benchmarks Regulations” has the same the same meaning as in Part 2 of Schedule 1 to the Financial Services Act 2019;”;

(c) omit the definition of “the Directive”; and

(d) after the definition of “total cost of the credit to the consumer” insert—

“(2) In this Act or any provision made under it, except where there is express provision to the contrary—

(a) a reference to an amount in euros includes a reference to an equivalent amount in sterling; and

- (b) the equivalent in sterling on a particular day of a sum expressed in euros is to be determined by converting that sum into its equivalent in sterling using the exchange rate for the euro and sterling for the previous working day.
- (3) The Minister may by notice in the Gazette specify the exchange rate to be used for the purposes of subsection (2).”
- (4) For section 4(2)(i) substitute–
 - “(i) which are concluded with investment firms or credit institutions that are regulated firms within the meaning of the Financial Services Act 2019, for the purpose of allowing an investor to carry out a transaction relating to one or more of the financial instruments in paragraph 46 of Schedule 2 to that Act, where the investment firm or credit institution granting the credit is involved in the transaction;”.
- (5) In section 7(1)(v), for “Regulation (EU) 2016/1011 of the European Parliament and of the Council” substitute “the Benchmarks Regulations”.
- (6) In section 14(5), for “article 5 of Council Directive 85/577/EEC as applied by section 42 of the Contract and Tort Act” substitute “regulations 16, 19 and 20 of the Consumer Rights on Contracts Regulations 2013”.
- (7) Omit section 20.
- (8) In Schedule 1–
 - (a) in table 4, in row 3, for “the provisions implementing Article 16 of Directive 2008/48/EC” substitute “section 16 of this Act”;
 - (b) in table 4, in row 4, for “European Community” substitute “Gibraltar”; and
 - (c) in table 5, in row 2, for “your Member State of residence” substitute “Gibraltar”.
- (9) in Schedule 2–
 - (a) in the heading omit “(Article 2(5) of Directive 2008/48/EC)”;
 - (b) in table 3–
 - (i) in row 2, omit “(*)”; and
 - (ii) omit row 5;
 - (c) in table 4, in row 2, for “European Community” substitute “Gibraltar”;

- (d) in the heading of table 5, omit “(Article 2(5) of Directive 2008/48/EC”;
- (e) in table 5, in row 3, for “the provisions implementing Article 16 of Directive 2008/48/EC” substitute “section 16 of this Act”; and
- (f) in table 6, in row 2, for “your Member State of residence” substitute “Gibraltar”.

Dated: 4th February 2021.

A J ISOLA,
Minister with responsibility for financial services.

EXPLANATORY MEMORANDUM

These regulations are made under the European Union (Withdrawal) Act 2019 and address failures of retained EU law to operate effectively and other deficiencies arising from Gibraltar’s withdrawal from the European Union. The regulations amend the Financial Services (Consumer Credit) Act 2011, which gave effect in Gibraltar to Directive 2008/48/EC.